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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

CY MARTIN and ERIK LARSEN, Plaintiffs, -vs- DRUMLUMMON GOLD CORP., Defendant.	No. _____ C O M P L A I N T
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COME NOW PLAINTIFFS above-named and allege:

1. Plaintiffs, former employees of Drumlummon Gold Corporation, bring this action to recover unpaid overtime compensation, liquidated damages, and attorneys' fees and costs.

2. Jurisdiction over this action is invoked pursuant to 29 USC §216 and pursuant to the general civil jurisdiction of this Court.

3. Plaintiffs are former employees of Drumlummon Gold Corporation. This employment was within Lewis and Clark County of the State of Montana.

4. Defendant Drumlummon Gold Corporation is a foreign corporation authorized to do business in the State of Montana, and operating the Drumlummon Gold Mine in Lewis and Clark County, Montana. Defendant is engaged in interstate commerce.

5. Plaintiffs were hourly paid employees of Drumlummon Gold Corporation within three years of the date of commencement of this action.

6. Defendant employed Plaintiffs for work weeks longer than 40 hours, and failed and refused to compensate Plaintiffs for work in excess of 40 hours at rates not less than one and one-half times the regular rates at which they were employed, contrary to the provisions of the Fair Labor Standards Act (FLSA), 29 USC § 201, *et. seq.*

7. In addition to their regular wages, Plaintiffs were paid a production bonus while employed by Defendant.

8. When Defendant paid overtime pay to Plaintiffs, Defendant did not take Plaintiffs' production bonuses into account

in calculating the regular rate of pay of Plaintiffs. Consequently, Defendant underpaid overtime compensation to Plaintiffs.

9. The FLSA requires that overtime be paid at 1 ½ times the employee's regular rate, 29 USC § 207(a)(1). "Regular rate" is defined as all remuneration for employment, with certain statutory exceptions, 29 USC § 207(e) and 29 CFR § 778.108. Bonuses are part of the regular rate unless they are discretionary as defined in 29 CFR § 778.110. Production bonuses are not discretionary.

10. The records concerning the number of excess hours worked by each Plaintiff and the compensation they received are in the exclusive possession and control of Defendant, and Plaintiffs are unable to state at this time the exact amount owing to each of them. Plaintiffs propose to obtain such information by appropriate discovery proceedings to be taken in this cause.

11. Defendant's failure to properly pay Plaintiffs for overtime compensation was willful for purposes of the FLSA.

12. Defendant's foregoing actions violate the Fair Labor Standards Act.

WHEREFORE, Plaintiffs pray for relief as follows:

1. Judgment in an amount respectively due Plaintiffs for unpaid overtime compensation and liquidated damages in an amount equal to the unpaid overtime compensation;
3. Plaintiffs' costs in bringing this action;
4. Plaintiffs' reasonable attorneys' fees in bringing this action; and
5. Such other and further relief as the Court may deem appropriate.

DATED this 27th day of June, 2014.

MORRISON, SHERWOOD, WILSON & DEOLA, P.L.L.P.

BY: /s/Frederick F. Sherwood
Frederick F. Sherwood
Attorneys for Plaintiffs